

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE TREMONT SECURITIES LAW,
STATE LAW AND INSURANCE
LITIGATION

Master File No.
08 Civ. 11117 (TPG)

This Document Relates to:
All Actions (including 11 Civ. 01851)

**LAKEVIEW INVESTMENT, LP.'S MEMORANDUM
OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION, PURSUANT TO FED. R. CIV. P. 60(a), TO
CORRECT FINAL JUDGMENT AND ORDER OF DISMISSAL WITH
PREJUDICE REGARDING SETTLEMENT AND RULE 23 AND 23.1**

Plaintiff Lakeview Investment, LP (“Lakeview”) submits this memorandum of points and authorities in support of its motion, pursuant to Fed. R. Civ. P. 60(a) (“Rule 60(a)”), to correct the Final Judgment and Order of Dismissal With Prejudice Regarding Settlement and Rules 23 and 23.1 entered August 19, 2011 (Doc. No. 604 in 08 Civ. 11117; Doc. No. 33 in 11 Civ. 01851) (the “Final Judgment”).

Although paragraph 20 of the Final Judgment, at page 14, provides that “[a]ll Persons whose names appear on Exhibit 1 hereto are hereby excluded from the Settlement Class, [and] are not bound by th[e] Final Judgment (except with respect to the Fund Released Claims),”¹ the Final Judgment inadvertently omits Exhibit 1 thereto (the “Opt-Out List”). Pursuant to Rule 60(a), the Court should correct this mistake by entering a corrected final judgment and order of dismissal attaching the Opt-Out List.

On May 26, 2011, interim lead counsel filed a joint declaration, Doc. No. 521, attaching the May 25, 2011 declaration of Jose C. Fraga, senior director of operations for The Garden City Group, Inc., the Notice and Claims Administrator

¹ Lakeview submitted a timely request for exclusion. *See* Doc. 521-1, ¶10, at 3, & Ex. A, at 4, #70.

(the “Administrator”) for the Rule 23 settlement in this case. *See* Doc. 521-1. “Exhibit A” to Mr. Fraga’s declaration is the Administrator’s list of “exclusion requests” received in response to the notice of settlement. *See* Doc. 521-1, ¶10, at 3 & Ex. A.

On August 4, 2011, one of plaintiffs’ attorneys, Andrew J. Entwistle, delivered a letter to the Court, with electronic copies to all counsel, attaching, *inter alia*, a proposed final judgment and order of dismissal regarding the settlement and Rules 23 and 23.1 (the “Final Approval Order”). *See* Aug. 4, 2011 Letter from Andrew J. Entwistle to Hon. Thomas P. Griesa (“Entwistle Letter”), §C, at 4, & Ex. C. “Tab 1” to the Final Approval Order is the “full list” of exclusions from the settlement that interim class counsel divided into nine separate groups of exclusions. *See* Entwistle Letter, §D, at 5, & Ex. C, Tab 1.

The list of exclusions attached to Mr. Fraga’s declaration, Doc. 521-1, Ex. A, is attached as “Exhibit A” hereto (the “Fraga Opt-Out List”). The list of exclusions attached to the Final Approval Order, Entwistle Letter, Ex. C, Tab 1, is attached as “Exhibit B” hereto (the “Entwistle Opt-Out List”). Because there does not appear to be any material difference between the two lists, either one may be used as the Opt-Out List. Accordingly, pursuant to Rule 60(a), the Court should enter a corrected Final Judgment and Order of Dismissal Regarding Settlement and Rules 23 and 23.1, attaching the Fraga Opt-Out List or the Entwistle Opt-Out List as “Exhibit 1” thereto.

Dated: September 13, 2011

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